IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1994 OF 1991

Eshakbhai Abbasbhai & Ors. ...Petitioners.
Versus
State of Maharashtra
and Ors. ...Respondents.

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Mr.S.Halwasia i/b Halwasia & Co. for the Petitioner.
Mr.R.J.Mane, A.G.P., for Respondent Nos.1 & 2.
Mr.R.C.Shah with Mr.S.Nagvekar i/b Soloman & Co. for Respondent No.3.

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CORAM : **F.I.REBELLO AND SMT.V.K.TAHILRAMANI,JJ.**
DATED : **JUNE 08, 2006.**

P.C.:

. The petitioner had preferred this petition for derequisition of the premises which were taken by respondent No.1 under the Bombay Land Requisition Act, 1948. The prayer clause (a) in the Petition reads as under :

> "(a) That this Hon'ble Court be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or direction directing the Respondents derequisition the said premises i.e., Flat No.6, situated on the First Floor of Kachwalla Chambers, Christ Church Road, Bombay-400 008 and handover possession to the petitioners."

2. In so far as the law pertaining to derequisition is concerned, it is now settled that

respondent No.1 should have passed an appropriate order of derequisition, as premises cannot be kept under requisition for undue long period.

3. The respondent No.1 had allotted the premises to one Mr.J.E. Jhirad and in terms of the averments in the petition his widow Ms.Lily was residing in the premises. In the meantime, the State of Maharashtra amended the Rent Act in force in this area, pursuant to which the occupants of the premises were conferred tenancy rights qua the owners. That amendment was challenged before this Court, which upheld the challenge and quashed the law conferring tenancy right on the occupants. The matter was taken before the Apex Court. The respondent No.3 herein had also preferred Special Leave Petition. Upon Special Leave being granted, the Appeal was numbered as Civil Appeal No.4091 of 2002. The Apex Court reversed the judgment of this Court and upheld the validity of the law. The Apex Court, however, remanded the matter for considering any other points which were available to the parties in the Appeal before it. The petitioners were one of the appellants.

4. We have considered the grounds as raised in the present petition. Grounds (A) to (E) all are basically the same, namely, that respondent No.1 could not continue the premises under requisition for undue long period. Ground (F) is regarding compensation and taxes which would not be relevant considering the reliefs sought for in terms of prayer clause (a), which has already been reproduced above. It is, therefore, clear that there is no other point to be considered in this Petition and the matter stands concluded by the judgment of the Apex Court. By operation of law, the occupant in the premises has been made a direct tenant of the suit premises. Respondent No.3 is therefore protected by the judgment of the Apex Court.

5. Considering the judgment of the Apex Court, nothing further survives in this Petition. Accordingly, Rule discharged. There shall be no order as to costs.

[F.I.REBELLO,J.]

[SMT.V.K.TAHILRAMANI,J.]